

**UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF MICHIGAN**

Star Lodge, LLC,	)	
	)	
Plaintiff,	)	Case No. 2:19-cv-10905
	)	Hon. Stephen J. Murphy, III
v.	)	Mag. R. Steven Whalen
	)	
Endurance American Specialty	)	
Insurance Company,	)	
	)	
Defendant.	)	

**DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

NOW COMES Defendant, Endurance American Specialty Insurance Company (“Endurance”), by and through its attorneys, and for its Motion for Summary Judgment, states as follows:

The undersigned counsel sought concurrence from Plaintiff’s counsel in all aspects of this motion. Plaintiff does not concur with the motion.

For the reasons set forth in its Brief in Support of Motion for Summary Judgment, which is incorporated herein by reference, Endurance is entitled to summary judgment on its common law defense of Rescission and based on the insurance policy’s Fraud and Misrepresentation provision. As set forth in Endurance’s Brief in Support of Motion for Summary Judgment, Star Lodge applied for insurance and misrepresented the presence of criminal activity on the property at issue. Since Star Lodge’s misrepresentation was material, Endurance properly exercised its common law right to rescind the insurance policy and, at any rate, the policy is void under its Fraud and Misrepresentation provision.

Alternatively, Endurance is entitled to partial summary judgment limiting Star Lodge's recovery to actual cash value, since repairs were never and will never be completed.

Endurance incorporates by reference all arguments and authorities set forth in its Brief in Support of Motion for Summary Judgment, which has been filed contemporaneously herewith.

/s/ Brian E. Devilling`

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**PROOF OF SERVICE**

The undersigned does hereby swear and affirm that he served a copy of the foregoing document on all counsel of record by filing same through the Court's Electronic Filing System.

/s/ Brian E. Devilling